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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,113	05/24/2001	Carl Phillip Gusler	AUS920010251US1	1463
45993	7590	07/07/2005		
IBM CORPORATION (RHF) C/O ROBERT H. FRANTZ P. O. BOX 23324 OKLAHOMA CITY, OK 73123			EXAMINER RHODE JR, ROBERT E	
			ART UNIT 3625	PAPER NUMBER

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,113

Applicant(s)

GUSLER ET AL.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/6/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant amendment of 3-23-05 traversed rejections of Claims 1 - 27.

Currently, claims 1- 27 are pending.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8, 9, 10, 12, 13, 17, 18, 19, 21, 22, 26 and 27 are rejected under 35

U.S.C. 102(b) as being in public use as evidenced by “Surfing; [Cook/Dupage/Fox Valley/Lake/McHenry Edition]; Daily Herald; Arlington Heights, Ill; Dec 6, 1999 and Odigo.com web pages of May 10, 2000 captured via the WayBackMachine (archieve.org) and hereafter collectively referred to as “Odigo”.

Please note that each of the NPL documents pre-date the filing of the applicant’s invention by 1 year.

Regarding Claim 1 and related claims 10 and 19 (previously amended), Odigo teaches a method and system for providing enhanced online shopping experiences to online shoppers for automatic association of two or more online shoppers, said method comprising the steps of: searching a list of concurrently online shoppers according to a set of search criteria, said shoppers each contemporarily being a user of a common virtual shopping resource, said shoppers being otherwise disassociated with each other (see at least pages 1 – 7, 9 and 10); notifying a first

online shopper that at least one other concurrently online shopper meets said search criteria; and automatically associating said first online shopper with said one or more concurrently online shoppers meeting said criteria (see at least pages 2 and 9 - 14).

Regarding Claim 3 and related claims 12 and 21 (original), Odigo teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper name criteria (Page 2 and 3).

Regarding claim 4 and related claims 13 and 22, Odigo teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position criteria (Page 10 and 11).

Regarding claim 8 and related claims 17 and 26, Banks teaches a method wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises establishing a communications session between said online shoppers (Pages 1, 10 and 13).

Regarding claim 9 and related claims 18 and 27, Odigo teaches a method wherein said step of establishing a communications session between said online shoppers further comprises making a record of said communications session (pages 9 and 13). Please note that Odigo does not specifically disclose recording the communication session. However, it is old and well known that these chat/communications sessions can and are saved in a database, which is effectively a

recording. In this manner, the individuals will be able at a later to review their online chat sessions as necessary.

Claims 2, 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1 and 19 above, and further in view of Wong (US 6,708,172).

Odigo disclose and teach substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall.

On the other hand and in the same area of concurrently online shoppers and regarding Claim 2 and related claims 11 and 20 (original), Wong teaches a method wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall (see at least Col 23, lines 36 – 67 and Col 24, lines 1- 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Odigo with the method and system of Wong to have enabled a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall. Odigo discloses a method and system for searching for and notification and associating with other concurrently

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online shoppers who match a buddy list. Wong discloses a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall (see at least page). Therefore, one of ordinary skill in the art would have been motivated to extend Odigo with a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall. In this manner, the online shoppers will be able to physically locate each other and thereby enjoy companionship during in store shopping.

Claims 5, 6, 14, 15 and 23 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1, 10 and 19 above, and further in view of Banks (US 2002/0095465 A1).

Odigo discloses and teaches substantially the applicant's invention.

However, Odigo does not specifically disclose and teach a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria.

Regarding claim 5 and related claims 14 and 23, Banks teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria (Page 4, Para 0064).

Regarding claim 6 and related claims 15 and 24, Banks teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria (Page 4, Para 0064).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of with the method and system of Banks to have enabled a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria. Odigo discloses a method and system for searching for and notification and associating with other concurrently online shoppers who match a buddy/friends list. Banks discloses a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria (see at least Abstract and Para 0060 and 0064). Therefore, one of ordinary skill in the art would have been motivated to extend Odigo with a method and system wherein said step of

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searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria. Thereby, the online shopper can locate and communicate with individuals of similar tastes, which will include more meaningful recommendations for other online shopping sites.

Claims 7, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1, 10 and 19 above, and further in view of Ferreira (US 2001/0034661 A1).

Odigo substantially discloses and teaches the applicant's invention.

While Odigo does disclose automatically associating of online shoppers, the reference does not specifically disclose and teach a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values.

On the other hand in the same area of online method and systems and regarding claim 7 and related claims 16 and 25, Ferreira teaches a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online

shoppers comprises setting position coordinates for both shoppers to equivalent values (see at least Abstract and Figures 4, 5 and 16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided Odigo with the a method and system of Ferreira to have enabled a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values. Odigo discloses a method and system for searching for and notification and associating with other concurrently online shoppers who match a buddy list. Ferreira disclose a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values (Abstract and Figures 4, 5 and 16). Therefore, it would have been obvious to one of ordinary skill in the art to have extended Odigo with a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values.

Response to Arguments

Applicant's arguments, filed 3-23-05, with respect to the previous rejection have been considered and are persuasive regarding only uTOK web site screen captures. Thereby, the 35 USC 103(a) rejection has been withdrawn. However and in light of the new NPL (Odigo.com screen captures) above, the rejection has been changed to 35 USC 102(b). Of note and in response to applicant's argument regarding the use of NPL, the reference documents are

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detailing a product (Odigo), which was in the public domain and for sale one year before the applicant's filing date. Moreover, the Abstract of "Surfing" was not the *only* portion relied upon in the previous rejection as well as the current rejection. Rather, the *text* as noted in the rejection was relied upon and on page one and on page two several products were highlighted. These products are highlighted for new ways to communicate online and page two specifically show cases several products sold to the public at that time. One of those products was Odigo. In that regard, the previous rejection contained uTOK web site screen captures, which was provided by mistake. The new NPL - Odigo web site screen captures provided in the current rejection adds the additional detail, which discloses to one of ordinary skill that the primary reference of "Surfing" is enabled regarding Odigo. Moreover and as documented in "Surfing", there were similar products such as Goovey and Instant Rendezvous available to buyers that provided new ways of searching and rendezvousing/associating online as well as communicating online - such as online chat.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is "The Official America Online Tour Guide"; 4th Edition and copyrighted 1998.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 571.272.6761. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

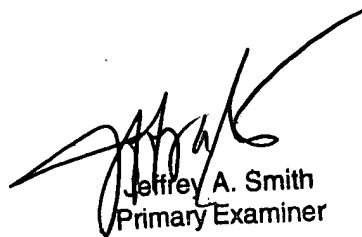
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"PROPOSED" or "DRAFT"]

RER



Jeffrey A. Smith
Primary Examiner